

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

GREENBRIER HOTEL CORPORATION, et  
al.,

Plaintiffs,

v.

Civil Action No. 5:23-cv-00731  
Honorable Frank W. Volk, Judge

CARTER BANK & TRUST, et al.,

Defendants.

**DEFENDANTS' REPLY IN SUPPORT  
OF THEIR MOTION FOR BIFURCATED RULE 12 BRIEFING**

Defendants respectfully submit this Reply in Support of Their Motion for Bifurcated Rule 12 Briefing. Plaintiffs have not filed any response to Defendants' Motion and Plaintiffs have represented to the Court that they do not oppose Defendants' Motion. *See* ECF No. 15, Plaintiffs Reply in Support of Their Motion to Provisionally Seal Portions of the Complaint at 2, n.1 (stating "Plaintiffs do not oppose Defendants' Motion for Bifurcated Rule 12 Briefing."). The unopposed Motion is thus ripe for decision.

In addition, an order granting the Motion would conserve the parties' resources and promote judicial economy and efficiency because Plaintiffs' Motion to Seal the Complaint has not yet been decided and the *unredacted* Complaint has thus not yet been deemed filed. *See* ECF Administrative Procedures § 12.2 ("Motions to seal and any accompanying proposed documents for sealing shall be considered lodged with the court pending a ruling on the sealing request."). Defendants' deadline to respond to the *redacted* Complaint is looming. If Defendants' unopposed Motion for Bifurcated Rule 12 Briefing is not granted before the deadline, then Defendants will be forced to file an incomplete and potentially unnecessary motion to dismiss the *redacted*

complaint under Rule 12(b)(6), followed by an additional motion to dismiss once the *unredacted* Complaint is deemed filed.

For these reasons, and as set forth in Defendants' Memorandum in Support of Their Motion for Bifurcated Rule 12 Briefing (ECF No. 13), Defendants respectfully ask the Court to enter an order granting the unopposed Motion as the Court did in the prior case under similar procedural circumstances. *See* ECF No. 44, *Bellwood Corp. et al. v. Carter Bank & Trust*, 5:21-cv-00320 (Order granting unopposed Motion for Bifurcated Rule 12 Briefing). Specifically, Defendants, having already filed their motions regarding venue and jurisdiction, respectfully move the Court for entry of an Order staying Defendants' obligation to file any other Rule 12 motion regarding the substance of Plaintiffs' claims until the Court's resolution of the procedural issues regarding venue and jurisdiction.

Respectfully submitted,

**CARTER BANK & TRUST, et al.,**

By counsel,

/s/ R. Booth Goodwin II

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**CERTIFICATE OF SERVICE**

I, R. Booth Goodwin II, hereby certify that I served a true and correct copy of the foregoing **Defendants' Reply in Support of Motion for Bifurcated Rule 12 Briefing** upon the following counsel of record on December 29, 2023 via the Court's CM/ECF system.

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